

I am Mark Agather of 10 Ford Way, Kalispell, MT. I appear before you in support of Senator Jackson's bill to postpone the consideration of the Water Compact for a period of two years. In addition to myself I speak for over 250 people of the State of Montana or who own land in our State. They have signed petitions which speak out strongly against any approval of any Water Compact which will be set before the public for approval by the members of our current legislative session. I apologize that I cannot be here in person but I spent two days in Helena earlier this week not knowing this hearing was occurring. Previous commitments precluded another trip to Helena this Friday. I appreciate having Senator Jackson reading these comments into the record while presenting to you the bulk of the petitions I had with me earlier this week.

I have studied the opinions, given by others, arguing the Compact document is flawed to such an extent it could not have a reasonable chance to fairly and equitably allocate water rights between Indian tribes and the citizens of our State, particularly those in Western Montana. Charges that the commission exceeded its authority, that scientific methods of determining water flows are questionable and that the Compact itself violates the Constitution of the State of Montana are valid concerns that have not been adequately addressed nor can they be in the short time between now and the end of the legislative session. In addition, the desire of the Compact Commission to pass a document created over a period of ten years, in a matter of months is unrealistic and unreasonable.

The length of the document, in and of itself, contributes greatly to our collective decision. An agreement of 1200 pages cannot fulfill the obligation for clarity and simplicity which the citizens of Montana so fairly expect from our governmental bodies. Further, it cannot be reasonably anticipated that a document of this size can be read and understood fully by elected officials much less by the ordinary citizen. I have yet to find any person outside of the Compact Commission who believes he/she knows what is in this agreement and who can, with any degree of certainty, predict what its final effects will be. In this respect many of your citizenry consider the proposed Compact document to be a "Pelosi" which will have to be passed to find out what is in it. Documents such as this are unacceptable to us. If passed this Compact will create a situation wherein only those with the resources to afford legal council will have the ability to understand the consequences of this law. The majority of our residents who do not have the ability to pay for attorneys will be excluded from any sort of power to protect their legitimate property rights. We cannot condone nor support such an outcome nor support any elected official who does.



Further, because of its length and complexity, we do not believe it will end the possibility of litigation but merely be the start of a long and arduous process of never ending lawsuits to explore what the intent of the agreement was. This will put the power of decision squarely inside the realm of the judicial branch of the Federal Government. In fact, approval of the Compact would effectively eliminate the ability of our elected officials to control the water rights of the citizens of Montana. In so doing, the people of our State will be excluded from the process entirely. We simply must oppose any action of approval as it is clearly not in the best interest of the people you represent.

In addition and more importantly, we collectively question the process which put our citizens into this position. We have read the Treaty of 1855 and have concluded that anyone can clearly see it did not give any water rights to the Indian tribes. While we recognize the need of water to make reservations viable the same as any privately owned piece of land owned by our citizens, none the less, we cannot reasonably agree with an interpretation which gives control of our State's water to entities outside of our State's representative process. We believe, without a shadow of doubt, that the Federal District Court Justices adjudicating past court cases exceeded their judicial mandates by, in effect, rewriting the treaties to their own specifications. In so doing they have become not judicial activists but rather judicial dictators. Further, since it is clear these justices exceeded their authority, we do not believe the Citizens of Montana need comply with their mandates. We believe it is necessary to explore this issue in detail before making such a profound and long lasting decision with such a valuable resource as the control of our citizen's water rights.

We fundamentally understand the implications involved in this process and its effects on the rights of the people of Montana not only for the present but also for our citizen's children, grandchildren and generations to come. For it is the water of the citizens of the State of Montana. We view the move of the Federal Government using Indians tribes to usurp the control of our water tantamount to "stealing". Support of such draconian decisions must be carefully explored before approved. It certainly cannot be done in any sort of responsible manner during the next two months of our legislative session. Therefore we ask our legislators to vote against the Compact if it comes before you in this legislative session or, at the very least, to support the bill of Senator Jackson to postpone consideration and debate of this issue for two years.